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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2011-547**

11 **FEODOR S. HADYKA**  
12 **3131 Homestead Road #4H**  
13 **Santa Clara, CA 95051**

**A C C U S A T I O N**

14 **Registered Nurse License No. RN 640618**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
20 Consumer Affairs.

21 2. On or about July 19, 2004, the Board of Registered Nursing issued Registered Nurse  
22 License No. RN 640618 to Feodor S. Hadyka (Respondent). The Registered Nurse License was  
23 in full force and effect at all times relevant to the charges brought herein and will expire on  
24 September 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1           4.     Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason  
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4           5.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
6 licensee or to render a decision imposing discipline on the license.

7                               STATUTORY AND REGULATORY PROVISIONS

8           6.     Section 2761 of the Code provides, in pertinent part, that the Board may take  
9 disciplinary action against a certified or licensed nurse for any of the following:

10           (a) Unprofessional conduct, which includes, but is not limited to

11           (1) Incompetence or gross negligence in carrying out usual nursing functions.

12           7.     California Code of Regulations, title 16, section 1442, provides that as used in section  
13 2761 of the Code, "'gross negligence' includes an extreme departure from the standard of care  
14 which, under similar circumstances, would have ordinarily been exercised by a competent  
15 registered nurse. Such an extreme departure means the repeated failure to provide nursing care as  
16 required or failure to provide care or to exercise ordinary precaution in a single situation which  
17 the nurse knew, or should have known, could have jeopardized the client's health or life."

18           8.     California Code of Regulations, title 16, section 1443, provides that as used in section  
19 2761 of the Code, "'incompetence' means the lack of possession of or the failure to exercise that  
20 degree of learning, skill, care and experience ordinarily possessed and exercised by a competent  
21 registered nurse as described in Section 1443.5."

22           9.     California Code of Regulations, title 16, section 1443.5, states:

23           "A registered nurse shall be considered to be competent when he/she consistently  
24 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
25 sciences in applying the nursing process, as follows:

26           "(1) Formulates a nursing diagnosis through observation of the client's physical condition  
27 and behavior, and through interpretation of information obtained from the client and others,  
28 including the health team.

1       "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
2 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
3 for disease prevention and restorative measures.

4       "(3) Performs skills essential to the kind of nursing action to be taken, explains the health  
5 treatment to the client and family and teaches the client and family how to care for the client's  
6 health needs.

7       "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
8 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
9 effectively supervises nursing care being given by subordinates.

10       "(5) Evaluates the effectiveness of the care plan through observation of the client's physical  
11 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
12 communication with the client and health team members, and modifies the plan as needed.

13       "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
14 health care or to change decisions or activities which are against the interests or wishes of the  
15 client, and by giving the client the opportunity to make informed decisions about health care  
16 before it is provided."

17       10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
18 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
19 act to pay a sum not to exceed reasonable costs of investigation and enforcement.

20                   CONTROLLED SUBSTANCES / DANGEROUS DRUGS

21       11. Section 4021 of the Code states:

22       "‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section  
23 11053) of Division 10 of the Health and Safety Code."

24       12. Section 4022 of the Code states, in pertinent part:

25       "‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,  
26 except veterinary drugs that are labeled as such, and includes the following:

27       "(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
28 prescription,’ ‘Rx only,’ or words of similar import.

1 ...  
2 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
3 prescription or furnished pursuant to Section 4006.”

4 13. **Dilaudid** is a brand name for **hydromorphone sulfate**, a Schedule II controlled  
5 substance as designated by Health and Safety Code section 11055(b)(1)(K) and dangerous drug as  
6 designated by Business and Professions Code section 4022. It is a narcotic drug.

7 14. **MS Contin** is a brand name for **morphine sulfate**, a Schedule II controlled substance  
8 as designated by Health and Safety Code section 11055(b)(1)(M) and dangerous drug as  
9 designated by Business and Professions Code section 4022. It is a narcotic drug.

10 15. **Sublimaze** is a brand name for **fentanyl citrate**, a Schedule II controlled substance as  
11 designated by Health and Safety Code section 11055(c)(8) and dangerous drug as designated by  
12 Business and Professions Code section 4022. It is a narcotic drug.

13 16. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for  
14 compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III  
15 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous  
16 drug as designated by Business and Professions Code section 4022. The varying compounds are  
17 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

18 17. **Darvocet and Darvocet-N** are among the brand names for a compounds of varying  
19 dosages of acetaminophen (aka APAP) and **propoxyphene napsylate**, a Schedule IV controlled  
20 substance as designated by Health and Safety Code section 11057(c)(2) and dangerous drug as  
21 designated by Business and Professions Code section 4022. The varying compounds are also  
22 known generically as **Propoxyphene with APAP**. These are all narcotic drugs.

23 CAUSE FOR DISCIPLINE

24 (Gross Negligence and/or Incompetence)

25 18. Respondent is subject to disciplinary action under section 2761(a)(1) of the Code, by  
26 reference to California Code of Regulations, title 16, section(s) 1442, 1443, and/or 1443.5, in that  
27 between in or about June 2008 and in or about July 2008, Respondent engaged in unprofessional  
28 conduct consisting of gross negligence and/or incompetence. The circumstances are as follows:

19. On several occasions in or about June 2008 and/or July 2008, while employed as a registered nurse at Saint Louise Regional Hospital in Gilroy, California, Respondent withdrew controlled substances including **Dilaudid, MS Contin, Sublimaze, Norco, and Darvocet** (or their generic equivalents) from the PYXIS unit(s), for administration to patients. Respondent's conduct on these occasions departed from the standard of care of a competent registered nurse. Among other things, Respondent: repeatedly failed to adequately document pre- and/or post-drug administration pain levels; administered a controlled substance earlier/more frequently than was prescribed by the physician's order; repeatedly failed to document his patient assessment and/or include nursing notes in the patient's chart; failed to document wastage of drugs not administered to patients; and/or otherwise repeatedly failed to adequately document his activities.

## PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License No. RN 640618, issued to Feodor S. Hadyka (Respondent);
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as is deemed necessary and proper.

DATED: 12/16/10

*Louise R. Bailey*  
LOUISE R. BAILEY, M.E.D., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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